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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALISON SKAMANGAS,

No. C 09-01534 SI

v. Plaintiff,

ORDER GRANTING PLAINTIFF'S MOTION TO REMAND CASE

VALLEYCARE HEALTH SYSTEM, et al.

Defendants.

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Plaintiff has filed a motion to remand this action to Alameda County Superior Court. The motion is scheduled for hearing on August 14, 2009. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter appropriate for resolution without oral argument and VACATES the hearing. Having considered the papers submitted, and for good cause shown, the Court hereby GRANTS plaintiff's motion and remands this case.

BACKGROUND

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Plaintiff filed this medical malpractice and products liability case on February 25, 2009 in Alameda County Superior Court against defendants ValleyCare Health System (“ValleyCare”), Pleasanton Emergency Medical Group (sued as Physicians Emergency Medical Group), Bay Area Cardiology Medical Group, Dr. Douglas Yoshida, Dr. Howard Yoshioka, Dr. Donald Lai, and Baxter Health Care Corporation (“Baxter”). On April 7, 2009, Baxter removed the case to this Court. Baxter contended that plaintiff’s products liability claims against Baxter concerning heparin presented a federal question because the federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*, is a comprehensive federal scheme that governs prescription drugs. Baxter also stated in its notice of removal that this Court has diversity jurisdiction over the matter because Baxter is not a citizen of California and the amount in controversy exceeds \$75,000. Although the other defendants are citizens of California, Baxter claimed that they did not defeat diversity because they were fraudulently joined in this action.

1 On June 17, 2009, a conditional transfer order from the United States Judicial Panel on
2 Multidistrict Litigation was filed in this action, transferring plaintiff's heparin-related claims to the
3 Northern District of Ohio and separating and remanding plaintiff's other medical negligence claims to
4 this Court. Plaintiff subsequently filed a motion to remand her medical negligence claims to state court.
5 Defendants Pleasanton Emergency Medical Group, Dr. Douglas Yoshida and Dr. Howard Yoshioka
6 joined plaintiff's motion. *See* Docket No. 18. Defendants Bay Area Cardiology Medical Group and Dr.
7 Donald Lai neither joined nor opposed remand. ValleyCare was the only defendant to oppose plaintiff's
8 motion.

DISCUSSION

10 ValleyCare argues that plaintiff's claims against it are so closely related to her claims against
11 Baxter that ValleyCare must be joined in the action against Baxter now pending in the Northern District
12 of Ohio. The Court disagrees. Here, plaintiff has asserted five claims. Four of the claims, against
13 Baxter only, concern products liability. The fifth claim, against all other defendants and not against
14 Baxter, is for medical negligence and wrongful death. As to the medical negligence claims, there is
15 neither diversity nor any other federal jurisdiction. ValleyCare suggests, in passing, that Baxter is an
16 indispensable party in the medical negligence claims against it. Any such argument is now better made
17 to the Alameda County Superior Court, which has jurisdiction over Baxter as well as the medical
18 negligence defendants.

CONCLUSION

Plaintiff's motion is GRANTED and this case is remanded to Alameda County Superior Court.
The clerk shall close the file and send the necessary materials to Alameda County Superior Court.

IT IS SO ORDERED.

25 || Dated: August 10, 2009

Susan Illston
SUSAN ILLSTON
United States District Judge